

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Peakspeed, Inc.,

Civil File No. 0:20-cv-01630-JRT-BRT

Plaintiff,

**DECLARATION OF OSCAR KRAMER
IN SUPPORT OF PLAINTIFF'S
OPPOSITION TO DEFENDANT'S
MOTION TO DISMISS**

v.

Timothy Emerson,

Defendant.

I, Oscar Kramer, declare as follows:

1. I am employed by Plaintiff Peakspeed, Inc. ("Peakspeed") as its Chief Geospatial Scientist. I submit this Declaration in support of Peakspeed's Opposition to Defendant's Motion to Dismiss. I have personal knowledge of the facts set forth herein, and if called as a witness I could and would competently testify to all of said facts.

2. I have been remotely employed as Peakspeed's Chief Geospatial Scientist since February 2020.

3. Prior to accepting this role, I worked as an independent consultant for EmersonAI, LLC ("EmersonAI"). I was hired as a consultant by Defendant Timothy Emerson ("Tim").

4. When I joined the team as Chief Geospatial Scientist in February 2020, I understood that the company I was joining at the time was called EmersonAI. But I understood that it was a "reconstituted" EmersonAI, in that it was not the company led by Tim for which I had previously only been willing to do consulting work; rather, it was a



company led by David Eaton as Chief Executive Officer, Tim as Chief Technology Officer, David Zimmerman as Vice President of Engineering, and me as Chief Geospatial Scientist. I understood that upon my acceptance of David Eaton's formal offer of employment, I would receive founders' stock equal to 5% of this reconstituted company.

5. I would not have left my previous job had my offer only been to work at a company led by Tim. Having previously worked with Tim when he was employed by DirectStream LLC and later as a consultant, I did not think Tim and I had compatible working styles, nor did I think that Tim was capable of running a software business without any prior business-management experience—at least not a business that I was willing to take the risk of leaving a stable job to join.

6. However, I knew that David Eaton had previously started and managed successful businesses in the past. I was only willing to join the team because I understood that David Eaton was in charge of the business and would be a part owner of the business, thus giving him a personal stake in the business's success.

7. When the team made the joint decision to form Peakspeed, in my mind, the change from EmersonAI to Peakspeed was merely a name change; Peakspeed was a reconstituted EmersonAI with David Eaton at the helm as Chief Executive Officer and part-owner with David Zimmerman, Tim, and me.

8. My salary is paid via direct deposit. I know that David Eaton pays my salary; he has financed all of Peakspeed's expenses. He also purchased my work laptop.

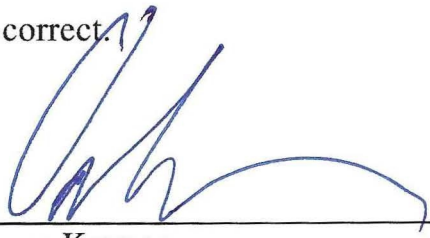


9. My understanding is that Peakspeed is based in Minnesota because that is where its Chief Executive Officer, David Eaton, and its Vice President of Engineering, David Zimmerman, live and work on behalf of the company.

I declare under penalty of perjury under the laws of the United States of America and the State of Florida that the foregoing is true and correct.

Dated: 01 Oct, 2020

By:


Oscar Kramer